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WORKMAN NYDEGGER/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

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| EXAMINER |
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NAWAZ, ASAD M

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. This action is responsive to the amendments filed 12/21/2007. Claims 1, 8-11, 13, 21, 24, 31, 36, 41 and 43 were amended. Claim 6 was canceled. Accordingly, claims 1-5 and 7-44 are pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-40 are rejected under 35 USC 101. The claimed invention is directed to non-statutory subject matter. The computer readable medium is directed towards data structure per se and a carrier wave.

Descriptive material can be characterized as either “functional descriptive material” or “nonfunctional descriptive material.” In this context, “functional descriptive material” consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of “data structure” is “a physical or logical relationship among data elements, designed to support specific data manipulation functions.” The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) “Nonfunctional descriptive material” includes but is not limited to music, literary works and a compilation or mere arrangement of data. Both types of “descriptive material” are nonstatutory when claimed as descriptive material per se. Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759. Furthermore, claims 1, 21, 31, 36 attempt to claim both a method and a computer readable medium. The specification (paragraph 0024) also states that a computer readable medium may

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comprise carrier wave, signal, or data structure. All of these do not meet the statutory class of invention.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 41-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, these claims recite language such as “adapted to” or ‘configured to”. These terminologies render the claim indefinite as the scope of the claim becomes open ended, undeterminable, and/or based upon intended use. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitations.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-44 are rejected under 35 U.S.C. 103(a) as being anticipated by Boyle (US Patent No. 6,279,054).

As to claim 1, Boyle teaches computer-readable medium having computer-executable instructions, comprising: receiving a request to open a file, the file having state information associated therewith (col 8, lines 47-57); in response to the request, sending a first handle to use to access data in the file and at least part of the state information associated therewith, the first handle having access rights to the file (col 4, lines 44-50); sending a resume key by which a duplicate handle may be requested, the duplicate handle having access rights to the file that correspond to the first handle; receiving the resume key and a request for a duplicate handle to the file (col 1, line 65 to col 2, line 10); sending the duplicate handle in response to the request for a duplicate handle; and providing access to the file via the duplicate handle (col 3, line 1-19). It would have been obvious to one of ordinary skill in the art at the time of invention to use a second channel to open a second/duplicate handle to the file.

As to claim 2, Boyle teaches the computer-readable medium of claim 1, wherein the state information includes a mode in which the file is opened (col 4, lines 34-55).

As to claim 3, Boyle teaches the computer-readable medium of claim 2, wherein the mode includes at least one of read only, read/write, a lock, and a mode in which the file is opened for exclusive use by the handle and any duplicates thereof (col 6, line 9-20).

As to claim 4, Boyle teaches the computer-readable medium of claim 3, wherein the lock comprises a range that indicates bytes of the file that can only be accessed by the first handle and any duplicates thereof (abstract).

As to claim 5, Boyle teaches the computer-readable medium of claim 1, further comprising authenticating a client that sends any request (col 5, lines 1-11).

As to claim 7, Boyle teaches the computer-readable medium of claim 1, wherein the request to open a file is sent over a first channel and the request for a duplicate handle to the file is sent over a second channel (col 4, lines 34-55).

As to claim 8, Boyle teaches the computer-readable medium of claim 7, wherein unencrypted information is sent over the first channel and encrypted information is sent over the second channel (abstract).

As to claim 9, Boyle teaches the computer-readable medium of claim 7, wherein the channels pass through a single network interface on a single client (col 7, lines 45-65).

As to claim 10, Boyle teaches the computer-readable medium of claim 7, wherein the channels pass through at least two interfaces on a single client (col 7, lines 45-65).

As to claim 11, Boyle teaches the computer-readable medium of claim 7, wherein the first channel is disconnected and wherein the file remains open afterwards (col 6, lines 2-40).

As to claim 12, Boyle teaches the computer-readable medium of claim 11, wherein the resume key is received after the first channel has become disconnected (abstract).

As to claim 13, Boyle teaches the computer-readable medium of claim 7, wherein the first channel is disconnected and wherein the file remains open afterwards at least until another client requests access to the file (col 4, lines 34-55).

As to claim 14, Boyle teaches the computer-readable medium of claim 13, wherein if the other client requests access to the file before a time has expired, the other client is denied access to the file (col 7, lines 45-65).

As to claim 15, Boyle teaches the computer-readable medium of claim 13, wherein if the other client requests access to the file after the time has expired, the file is closed and the other client is granted access to the file (col 7, lines 45-65).

As to claim 16, Boyle teaches the computer-readable medium of claim 15, wherein the client is informed that the file has been accessed by another client after the client sends the resume key with a request for a duplicate handle (abstract).

As to claim 17, Boyle teaches the computer-readable medium of claim 13, wherein after the resume key is received, the client is informed that the file has not been changed by another client (col6, lines 9-20).

As to claim 18, Boyle teaches the computer-readable medium of claim 1, wherein the request to open the file is sent from a first client and the duplicate handle is sent to a second client (abstract).

As to claim 19, Boyle teaches the computer-readable medium of claim 18, wherein the first client sends the duplicate handle to the second client (abstract).

As to claim 20, Boyle teaches the computer-readable medium of claim 18, wherein the second client receives the duplicate handle from a server that provides access to the file (abstract).

Claims 21-44 present no further limitations above claims 1-20 and thus are rejected under similar rationale.

Response to Arguments

8. Applicant's arguments filed have been fully considered but they are not persuasive. More specifically the applicant argues that A), Boyle does not teach the access of files residing on a server and B), Boyle does not teach communicating over multiple channels.

In response to A, at the onset, it should be noted that not all claims contain this limitation (i.e. claim 31). Also, claims such as 1-40 do not specify that a client is carrying out this procedure. Nevertheless, Boyle teaches the use of ISDN (col 8, lines 60-63). Applicant should be aware that claimed subject matter not the specification is the measure of the invention. Disclosure contained in the specification cannot be read into the claims for the purpose of avoiding prior art. In re Sporck, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1986); In re Self, 213 USPQ 1, 5 (CCPA 1982); In re Priest, 199 USPQ 11, 15 (CCPA 1978).

In response to B, the rejection has been modified to reflect teachings pertaining to this argument.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asad M. Nawaz whose telephone number is (571) 272-3988. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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AMN

/saleh najjar/

Supervisory Patent Examiner, Art Unit 2155